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SENATE BILL NO. 388

Offered January 20, 2000

A BILL to amend and reenact § 2.1-114.5 of the Code of Virginia, to amend the Code of Virginia by adding a section numbered 2.1-114.5:02, and to repeal § 2.1-526.10 of the Code of Virginia, relating to the Department of Personnel and Training; administration of the state workers' compensation program.

Patrons—Bolling, Colgan, Hawkins, Lambert, Martin, Potts, Quayle, Rerras, Schrock, Stosch and Wampler; Delegates: Albo, Broman, Byron, Callahan, Drake, Dudley, Kilgore, Landes and Wardrup

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That § 2.1-114.5 of the Code of Virginia is amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 2.1-114.5:02 as follows:

§ 2.1-114.5. Duties of Department.

The Department shall have the following duties:

1. Make recommendations to the Governor regarding the establishment and maintenance of a classification plan for the service of the Commonwealth, and recommend amendments thereto as may be necessary.

2. Make recommendations to the Governor regarding the establishment and administration of a compensation plan for all employees, and recommend amendments thereto as may be necessary.

3. Design and maintain a personnel information system which shall support the operational needs of the Department and of state agencies, and which shall provide for the management information needs of the Governor, his secretaries, and the General Assembly. The system shall provide at a minimum a roster of all employees in the service of the Commonwealth, in which there shall be set forth as to each employee, the employing agency, the class title, pay, status and such other data as may be deemed desirable to produce significant facts pertaining to personnel administration.

4. Establish and direct a program of employee-management relations designed to improve communications between employees and agencies of the Commonwealth.

5. Establish and administer a system of performance evaluation for all employees in the service of the Commonwealth, based on the quality of service rendered, related where practicable to specific standards of performance. In no event shall workers' compensation leave affect the total number of hours credited during a performance cycle for purposes of calculating incentive increases in salary based on such performance evaluations.

6. Establish and administer a system of recruitment designed to attract high quality employees to the service of the Commonwealth. In administering this system, applicants shall be rated on the basis of relative merit and classified in accordance with their suitability for the various classes of positions in the service of the Commonwealth, and a record thereof shall be maintained in the open register.

7. Design and utilize an application form which shall include, but not be limited to, information on prior volunteer work performed by the applicant.

8. Establish and administer a comprehensive and integrated program of employee training and management development.

9. Establish and administer a program of evaluation of the effectiveness of performance of the personnel activities of the agencies of the Commonwealth.

10. Establish and administer a program to assure equal employment opportunity to applicants for state employment and to state employees in all incidents of employment.

11. Establish and administer regulations relating to disciplinary actions; however, no disciplinary action shall include the suspension without pay for more than ten days of any state employee who is under investigation without a hearing conducted either by a level of supervision above the employee's immediate supervisor or by his agency head.

12. Adopt and implement a program of meritorious service awards to employees who propose procedures or ideas which are adopted and which will result in eliminating or reducing state expenditures or improving operations, provided such proposals are placed in effect.

13. Develop state personnel policies and, after approval by the Governor, disseminate and interpret state personnel policies and procedures to all agencies. Such personnel policies shall permit an employee, with the written approval of his agency head, to substitute (i) up to 33 percent of his accrued paid sick leave, (ii) up to 100 percent of any other paid leave, or (iii) any combination of accrued paid sick leave and any other paid leave for leave taken pursuant to the Family and Medical Leave Act of

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1993 (29 U.S.C. § 2601 et seq.). On and after December 1, 1999, such personnel policy shall include an acceptable use policy for the international network of computer systems commonly known as the Internet. At a minimum, the Department's acceptable use policy shall contain provisions which (i) prohibit use by state employees of the Commonwealth's computer equipment and communications services for sending, receiving, viewing, or downloading illegal material via the Internet and (ii) establish strict disciplinary measures for violation of the acceptable use policy. An agency head may supplement the Department's acceptable use policy with such other terms, conditions, and requirements as he deems appropriate. The Director of the Department of Personnel and Training shall have the final authority to establish and interpret personnel policies and procedures and shall have the authority to assure full compliance with such policies. However, unless specifically authorized by law, the Director of the Department of Personnel and Training shall have no authority with respect to the state grievance procedures.

14. Ascertain and publish on an annual basis, by agency, the number of employees in the service of the Commonwealth, including permanent full-time and part-time employees, those employed on a temporary or contractual basis, and constitutional officers and their employees whose salaries are funded by the Commonwealth. The publication shall contain the net gain or loss to the agency in personnel from the previous fiscal year. Effective July 1, 1995, the publication shall include net gains and losses in personnel for each agency for a three-year period.

15. *Administer the workers' compensation insurance plan for state employees in accordance with § 2.1-114.5:02.*

§ 2.1-114.5:02. *Workers' Compensation insurance plan for state employees continued.*

A. *The Workers' Compensation Program (the "Program") established under former § 2.1-526.10 and administered by the Department of General Services through its Division of Risk Management is hereby continued and transferred to the Department of Personnel and Training.*

B. *The Program's insurance plan may be self-insurance, purchased insurance or a combination of self-insurance and purchased insurance that is determined to be the most cost effective on a statewide basis and will be of less cost to the Commonwealth than the aggregate of individual agency policies. If the Department of Personnel and Training is informed by the Attorney General's Office that it will not provide a defense due to a conflict or other appropriate reason, the Department shall provide for payment of attorneys' fees and expenses incurred in defending workers' compensation claims against the Commonwealth, its agencies and institutions.*

C. *The Program shall provide for the establishment of a trust fund for the payment of claims covered under the Program. The funds shall be invested as provided in § 2.1-185, and interest shall be added to the fund as earned. The trust fund shall also provide for payment of administrative costs, contractual costs, and other necessary expenses related to the administration of such program.*

D. *The Program shall be submitted to the Governor for approval prior to implementation.*

E. *The Department of Personnel and Training may confer with the proper officials or employees of all agencies and institutions of the Commonwealth for the purpose of providing loss prevention programs. The Department may seek the assistance of state agencies, risk management consulting companies, loss prevention engineering companies, and their representatives in devising means by which causes of loss may be reduced or eliminated.*

F. *Information contained in investigative reports of any state or local police department, sheriff's office, fire department or fire marshal relevant to the Program established pursuant to this section shall be made available upon request by the Department. Information so requested shall be furnished within a reasonable time, not to exceed thirty days.*

2. That § 2.1-526.10 of the Code of Virginia is repealed.

3. That the Governor may transfer an appropriation, or any portion thereof, or any employees within an agency established, abolished or otherwise affected by the provisions of this act, or from one such agency to another, to support the changes in organization or responsibility resulting from or required by the provisions of this act.

4. That, as of the effective date of this act, the Department of Personnel and Training shall be deemed successor interest to the Department of General Services to the extent that this act transfers powers and duties. All right, title and interest in and to any real or tangible personal property vested in the Department of General Services to the extent that this act transfers powers and duties as of the effective date of this act shall be transferred to and taken as standing in the name of the Department of Personnel and Training.